FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE.

CRIMINAL APPLICATION NO. 624 OF 2005.

Ruturaj Vilas Patki. .. Applicant.
vs.
The State of Maharashtra. .. Respondent.

Office Notes,Office Memoranda of Coram, appearnaces,Courts's orders or directions and Registrar's orders.	:	Court's or Judge's orders

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Shri P.M.Prahan for the applicant.
Shri A.S. Shitole, A.P.P. for the State.

CORAM: V.M.KANADE,J.
DATED: 09.02.2005.

P.C.:

1. Heard learned Counsel appearing on behalf of the applicant and the learned A.P.P. for the State.

2. The applicant is arrested by Kothurd Police Station in connection with an offence registered vide C.R. No.595 of 2004. Complaint was filed by one Ratnakar Babubao Sheldarkar, stating therein that the applicant was responsible for the death of his daughter- Manasi. The prosecution case is that his daughter got married with the applicant on 23rd June 2004. Initially, for some time applicant and the deceased Manasi were staying at the residence of the complainant and

thereafter they shifted to Pune. On 29th October 2004, at about 9 a.m. in the morning deceased Manasi fell down from the gallery of the 6th floor of the building where the applicant was residing. She was immediately admitted in the hospital where she was declared dead before admission. Initially, on 29.10.2004, case of accidental death was registered at Kothurd Police Station. Thereafter, a complaint was lodged by Ratnakar Baburao Sheldarkar, father of the deceased on 1st November 2004 in which it was stated that the applicant was demanding gold necklace worth 5 tolas and an amount of Rs. 1 lac and since said amount was not paid the applicant with the help of his parents had thrown the deceased from the gallery. Thereafter on the complaint which was lodged on 1st November 2004, offence punishable under section 306 and 498-A read with section 34 of the Indian Penal Code was registered against the accused. Thereafter, on 3.11.2004 the Police Superintendent, Kothurd Police station informed the Sub-Inspector of Police that offence under section 302 of the I.P.C.

should be registered against the accused and further investigation should be made. Accordingly, offence under section 302 of the I.P.C. was also added to the offence which was already registered against the applicant.

3. The applicant has annexed copy of the charge sheet which contains statements of the witnesses. Learned Counsel for the applicant submitted that none of the 24 witnesses whose statements are included in the charge sheet have witnessed the said incident. He further submitted that one of the witnesses has deposed that the applicant and his deceased wife had never quarrelled at any time during their stay in the said flat. He submitted that there is no evidence to suggest that the death of the deceased was homicidal. He further brought to my notice the statement of the mother of the deceased wherein she has stated that initially she had received information that her daughter fell down from the gallery while she was removing clothes from the stand in the balcony. He submitted that charge sheet has already

been filed and the applicant is in jail since 1st November 2004. He is not likely to tamper with evidence. He, therefore, submits that this is a fit case for grant of bail.

4. The learned A.P.P. appearing for the State vehemently opposed the bail application. He submitted that death of the deceased has occurred within four months after marriage and,therefore, presumption is raised under section 113-A of the Evidence Act. He submitted that body of the deceased was found at a distance of 8’ from the building on the internal road of the society compound. He submitted that position of the body would indicate that the deceased did not fall down accidentally but she was thrown from the balcony. He also pointed out that though initially the Doctor in the post-mortem report gave his opinion that death was due to shock due to multiple injuries, thereafter, the Doctor had visited the place where the said body was found and has given opinion that considering the spot and situation where

dead body was found, case of homicidal death was not excluded. Learned A.P.P. further submitted that there was enough evidence to show that demand of dowry was made by the applicant and the circumstances in which the body was found at the scene of offence, clearly indicates that the applicant was responsible for the death of the deceased and, therefore, offence under section 302 of the I.P.C. has been rightly added by the prosecution.

5. In the present case, considering the peculiar facts and circumstances of the case, it is difficult to come to a definite conclusion at this stage, whether death of the deceased was accidental, homicidal or as a result of the suicide committed by her. Admittedly, no evidence of any eye witness in support of the case of murder is alleged by the prosecution, particularly when the incident in question has taken place at 9 a.m. The height of the gallery is admittedly 3 feet. One iron stand was found in the gallery which was used for the purpose of keeping clothes for drying. It is difficult to

come to a conclusion on this evidence, at this stage, whether death was accidental, homicidal or suicidal. There is no evidence to show that there was any quarrel between the applicant and the deceased. Complaint is filed 3 days after the incident. The applicant is an Engineer who is carrying on business at Pune. In my view, considering the aforesaid circumstances, this is a fit case for grant of bail.

6. Applicant is, therefore, directed to be released on bail in the sum of Rs. 10,000/- with one or two sureties of the like amount.

7. It is made clear that the trial Court shall not be influenced by the observations made by this Court while passing order of bail. The trial Court shall decide the case on its own merits on the basis of the evidence adduced by the prosecution.,

8. Parties to act on authenticated copy of this order.

(V.M.KANADE,J)